

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY JUNE 24, 2010

AMENDED IN ASSEMBLY MAY 26, 2010

AMENDED IN ASSEMBLY MARCH 11, 2010

AMENDED IN ASSEMBLY JULY 16, 2009

AMENDED IN ASSEMBLY JULY 2, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 220

Introduced by Senator Yee
(Coauthor: Assembly Member Hill)

February 23, 2009

An act to add Section ~~1367.27~~ *1367.002* to the Health and Safety Code, and to add Section ~~10123.175~~ *10112.2* to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Yee. Health care coverage: ~~tobacco cessation~~ *preventive health services*.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms. With respect to plan years beginning on and after September 23, 2010, the act requires health insurance issuers to provide coverage, and not impose cost-sharing requirements, for certain preventive health services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act

a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. ~~Under existing law, a health care service plan and a health insurer are required to provide coverage for specified tests, including all generally medically accepted cancer screening tests.~~

~~This bill would require certain health care service plan contracts and health insurance policies that provide outpatient prescription drug benefits to also provide coverage for tobacco cessation services that include specified courses of treatment and medication, and would prohibit the imposition of copayments, coinsurance, or deductibles for the receipt of those benefits, as specified health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after September 23, 2010, to provide coverage, and not impose cost-sharing requirements, for certain preventive health services consistent with federal law.~~

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.002 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.002. To the extent required by federal law, a group or
- 4 individual health care service plan contract that is issued,
- 5 amended, renewed, or delivered on or after September 23, 2010,
- 6 shall comply with the requirements of Section 2713 of the federal
- 7 Public Health Service Act (42 U.S.C. Sec. 300gg), as added by
- 8 Section 1001 of the federal Patient Protection and Affordable Care
- 9 Act (Public Law 111-148), and any subsequent rules or regulations
- 10 issued pursuant to that section.
- 11 SEC. 2. Section 10112.2 is added to the Insurance Code, to
- 12 read:

10112.2. To the extent required by federal law, a group or individual health insurance policy that is issued, amended, renewed, or delivered on or after September 23, 2010, shall comply with the requirements of Section 2713 of the Public Health Service Act (42 U.S.C. Sec. 300gg), as added by Section 1001 of the Patient Protection and Affordable Care Act (Public Law 111-148), and any subsequent rules or regulations issued pursuant to that section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SECTION 1. The Legislature finds and declares the following:

~~(a) Providing tobacco cessation counseling and medication is one of the most clinically effective and cost-effective health services available, second only to inoculations. Tobacco cessation is 5 to 80 times more cost effective than pharmacologic interventions used to prevent heart attacks.~~

~~(b) More than 70 percent of smokers wish they could quit tobacco, and each year one of every two smokers attempts to quit. However, the unassisted successful tobacco quit rate has remained constant at less than five percent. Access to counseling and pharmaceutical benefits doubles the successful quit rate and has achieved quit rates of 25 to 30 percent. Experience in health plans indicates that access to all cessation services saves four dollars (\$4) for every dollar (\$1) invested.~~

~~(c) Each adult smoker costs employers one thousand seven hundred sixty dollars (\$1,760) in lost productivity and one thousand six hundred twenty-three dollars (\$1,623) in excess medical expenditures. Men who smoke incur fifteen thousand eight hundred dollars (\$15,800) more in lifetime medical expenses than men who do not smoke. For employers, the ultimate financial return is between five dollars (\$5) and six dollars (\$6) for every dollar spent on tobacco cessation.~~

~~(d) Because of member transfers between plans, financial savings and tobacco-related disease reductions are effective only~~

1 if universally available to the entire insured population. Therefore,
2 a mandate on all plans and insurers to provide cost-effective
3 treatment is necessary and beneficial.

4 (e) It is the intent of the Legislature that this act diminish the
5 statewide economic and personal cost of tobacco addiction by
6 making tobacco cessation treatments available to all smokers.
7 California has successfully reduced tobacco consumption in the
8 last decade, but, despite that success, tobacco use is responsible
9 for the unnecessary deaths of 40,000 residents and remains the
10 leading cause of preventable death in this state. Annually, tobacco
11 addiction costs California \$8.6 billion in direct medical costs,
12 which is approximately 12 percent of all health care costs.

13 SEC. 2. Section 1367.27 is added to the Health and Safety
14 Code, to read:

15 1367.27. (a) A health care service plan contract, except a
16 specialized health care service plan contract, that is issued,
17 amended, delivered, or renewed on or after July 1, 2011, that
18 provides outpatient prescription drug benefits, shall include
19 coverage for tobacco cessation services that include two courses
20 of treatment in a 12-month period including personal counseling,
21 which may be telephone, group, or individual counseling, and all
22 medications approved by the FDA for the purpose of tobacco
23 cessation, including all prescription and over-the-counter
24 medications. Covered treatment shall follow recommendations in
25 the Public Health Service sponsored 2008 clinical practice
26 guideline, "Treating Tobacco Use and Dependence: 2008 Update,"
27 or its successors.

28 (b) No copayment, coinsurance, or deductible shall be applied
29 to the benefits under this section.

30 (c) A health care service plan may contract with qualified local,
31 statewide, or national providers, whether for profit or nonprofit,
32 for the provision of services under this section.

33 (d) A health care service plan shall disclose the benefits under
34 this section in its evidence of coverage and disclosure forms and
35 communicate the availability of coverage to all enrollees at least
36 once per year.

37 (e) The coverage provided pursuant to this section shall only
38 be available upon the order of an authorized provider. Nothing in
39 this subdivision shall preclude a plan from allowing enrollees to
40 access tobacco cessation services on a self-referral basis.

1 (f) As used in this section, “course of treatment” shall be defined
2 to consist of the following:

3 (1) As applied to counseling, at least four sessions of counseling,
4 each session lasting at least 10 minutes.

5 (2) As applied to a prescription or over-the-counter medication,
6 the duration of treatment approved by the FDA for that medication.

7 (g) Enrollees shall not be required to enter counseling in order
8 to receive tobacco cessation medications.

9 (h) A health care service plan shall not impose prior
10 authorization or stepped-care requirements on tobacco cessation
11 treatment.

12 (i) A health care service plan shall implement this section
13 consistent with the requirements of the Health Care Providers’ Bill
14 of Rights, and a material change in the obligations of a plan’s
15 contracting providers shall be considered a material change to the
16 provider contract, within the meaning of subdivision (b) of, and
17 paragraph (2) of subdivision (g) of, Section 1375.7.

18 SEC. 3. Section 10123.175 is added to the Insurance Code, to
19 read:

20 10123.175.— (a) Every individual or group health insurance
21 policy that is issued, amended, delivered, or renewed on or after
22 July 1, 2011, that provides outpatient prescription drug benefits,
23 shall include coverage for tobacco cessation services that include
24 two courses of treatment in a 12-month period including personal
25 counseling, which may be telephone, group, or individual
26 counseling, and all medications approved by the FDA for the
27 purpose of tobacco cessation, including all prescription and
28 over-the-counter medications. Covered treatment shall follow
29 recommendations in the Public Health Service sponsored 2008
30 clinical practice guideline, “Treating Tobacco Use and
31 Dependence: 2008 Update,” or its successors.

32 (b) No copayment, coinsurance, or deductible shall be applied
33 to the benefits under this section.

34 (c) A health insurer may contract with qualified local, statewide,
35 or national providers, whether for profit or nonprofit, for the
36 provision of services under this section.

37 (d) An insurer shall disclose the benefits under this section in
38 its evidence of coverage and disclosure forms and communicate
39 the availability of coverage to all insureds at least once per year.

1 ~~(e) The coverage provided pursuant to this section shall only~~
2 ~~be available upon the order of an authorized provider. Nothing in~~
3 ~~this subdivision shall preclude an insurer from allowing insureds~~
4 ~~to access tobacco cessation services on a self-referral basis.~~

5 ~~(f) As used in this section, “course of treatment” shall be defined~~
6 ~~to consist of the following:~~

7 ~~(1) As applied to counseling, at least four sessions of counseling,~~
8 ~~each session lasting at least 10 minutes.~~

9 ~~(2) As applied to a prescription or over-the-counter medication,~~
10 ~~the duration of treatment approved by the FDA for that medication.~~

11 ~~(g) Insureds shall not be required to enter counseling in order~~
12 ~~to receive tobacco cessation medications.~~

13 ~~(h) A health insurance policy shall not impose prior~~
14 ~~authorization or stepped-care requirements on tobacco cessation~~
15 ~~treatment.~~

16 ~~(i) This section shall not apply to Medicare supplement,~~
17 ~~short-term limited duration health insurance, vision-only,~~
18 ~~dental-only, or CHAMPUS-supplement insurance, or to hospital~~
19 ~~indemnity, hospital-only, accident-only, or specified disease~~
20 ~~insurance that does not pay benefits on a fixed benefit, cash~~
21 ~~payment only basis.~~

22 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district will be incurred because this act creates a new crime or~~
26 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
27 ~~for a crime or infraction, within the meaning of Section 17556 of~~
28 ~~the Government Code, or changes the definition of a crime within~~
29 ~~the meaning of Section 6 of Article XIII B of the California~~
30 ~~Constitution.~~